



Senate Bill 513.01

Senate Bill 513 was introduced by Sen. John Brueggeman. The bill is scheduled for hearing before the Senate Committee on Taxation on **Friday, March 27, 2009**.

This bill creates a circuit breaker program to mitigate the effects of reappraisal. The bill repeals all existing circuit breaker type programs (PTAP, EPTAP, DAV, and 2EC).

The circuit breaker is available to qualified claimants who occupy a qualified residence for at least 7 months during the calendar year for which a claim is made.

- **Section 1 establishes a short title**
 - Sections 1 through 9 of the bill may be cited as the Montana Property Tax Relief Act
 - The Act may be referred to as "the circuit breaker program"
- **Section 2 identifies the purpose of the Act**
 - Provides property tax relief through a refundable income tax credit
- **Section 3 provides definitions, including**
 - A claimant is defined as one who resided:
 - As an owner or renter
 - In a qualified residence
 - For at least 7 months during the calendar year for which a claim is made
 - A household is defined as:
 - All individuals residing in a qualified residence
 - Who can not be claimed as a dependant on another individual's income tax return
 - Household income is defined as:
 - Total income of a household
 - As reported on the income tax return or returns required by Title 15, Chapter 30
 - For the year in which the credit is being claimed
 - Excluding losses and before any federal or state adjustments

- Income for claimants not required to file income tax returns is calculated as it would have been had the claimant been required to file a return
- Property taxes are defined as:
 - Taxes billed against a qualified residence
 - Including special assessments and fees
 - Not including penalties and interest
- Property taxes do not include special assessments and voted mill levies billed after December 31, 2011.
- A qualified residence is defined as:
 - A class four residential dwelling including
 - A single-family dwelling
 - A unit of a multiple-unit dwelling
 - Trailers
 - Manufactured homes
 - Mobile homes
 - Up to 1 acre of land reasonably necessary for the dwelling's use as a dwelling
- A qualified residence must be occupied for at least 7 months during the year for which a claim is made
- Rent constituting taxes paid is defined as 15% of the gross rent actually paid by a claimant for the right to occupy a qualified residence
- **Section 4 establishes the refundable income tax credit**
 - Creates an income tax credit for a portion of property taxes billed or rent-equivalent taxes paid by a claimant
 - Provides that the income tax credit is refundable
 - Authorizes claimants not required to file tax returns to claim the credit
 - Requires claims for credits to be filed by April 15 of the year following the year for which the credit is claimed
- **Section 5 establishes the methods for calculating the credit**
 - The method for calculating credits is established specifically for:
 - Claimants who own and occupy a qualified residence
 - Claimants who rent a qualified residence
 - Claimants who are disabled veterans or the unmarried surviving spouses of deceased veterans who meet certain income guidelines
 - For claimants who own and occupy or who rent a qualified residence:
 - The credit is available for that portion of property taxes billed or rent-equivalent taxes paid that exceed 2% of the claimant's household income
 - If a claimant's household income exceeds \$150,000, the amount of the credit must be reduced by \$1 for every \$10 the claimant's household income exceeds \$150,000

- A credit is not available to taxpayers whose household income exceeds \$200,000
- For claimants who are disabled veterans or the surviving spouse of a deceased veteran:
 - The credit is available for that portion of property taxes billed or rent-equivalent taxes paid that exceed 1% of the claimant's income if:
 - The claimant's household income was greater than \$44,000 but less than \$50,001
 - The credit is available for that portion of property taxes billed or rent-equivalent taxes paid that exceed 0% of the claimant's income if:
 - The claimant's household income was less than \$44,000
- **Section 6 provides the Department authority to deny certain credits**
 - Claims may be denied if the Department
 - Determines the claim(s) or claimant(s) do not qualify pursuant to the Act
 - Determines that a false or fraudulent claim has been filed
- **Section 7 provides penalties for false or fraudulent claims**
 - Claimants filing false or fraudulent claims are subject to misdemeanor criminal penalties under 45-7-202
 - False or fraudulent claims granted are subject to recapture by the Department
- **Section 8 establishes a "prebate" program**
 - Allows any claimant who qualifies for a tax credit under the act to apply for an advanced partial payment of the claimant's estimated credit
 - Advanced payment is equal to 40% of estimated credit
 - Payment must be used to pay property taxes
 - Requires the Department to establish a program to implement, administer, and enforce [Section 8]
 - Program must include:
 - Manner of application
 - Timing of application
 - Basis upon which property taxes are to be estimated
 - Method of payment
 - Any other matters necessary for proper implementation
 - Requires rules to specify and provide notice of:
 - Applicable penalty provisions
 - Recourse for denial of a claim
 - Appeals processes

- **Section 9 provides the Department with rulemaking authority**
 - The Department may adopt rules to implement, administer and enforce the Act
- **Section 10 establishes a new tax levy to fund the circuit breaker program**
 - Establishes a property tax levy
 - 100 mills or so much of 100 mills as is necessary to fund the circuit breaker program
 - Applied to all real estate and personal property in Montana
 - The levy is not subject to 15-10-420
- **Section 11 amends existing section 2-15-122 (creation of advisory councils)**
 - The amendment is necessary because the bill also amends section 15-6-134 to repeal the property tax assistance program (PTAP)
 - Repeal of PTAP includes repeal of the formula used in 2-15-122 to determine daily pay rates for advisory council members under 2-15-122
 - Recodifies the formula that had existed in 15-6-134 in 2-15-122
 - Does not result in a change in existing law
- **Section 12 amends existing section 5-2-301 (compensation for legislators while in session)**
 - The amendment is necessary because the bill also amends section 15-6-134 to repeal the property tax assistance program (PTAP)
 - Repeal of PTAP includes repeal of the formula used in 5-2-301 to determine daily pay rates for legislators while in session under 5-2-301
 - Recodifies the formula that had existed in 15-6-134 in 5-2-301
 - Does not result in a change in existing law
- **Section 13 amend existing section 15-6-133 (Class 3 property)**
 - Amends current class 3 property tax rate to 2.56%
- **Section 14 amends existing section 15-6-134 (Class 4 property)**
 - Repeals PTAP
 - Amends current class 4 tax rate to 3%
- **Section 15 amends existing section 15-6-143 (Class 10 property)**
 - Amends current class 10 tax rate to 0.23%
- **Section 16 amends existing section 15-6-222 (Homestead/Comstead)**
 - Eliminates existing exemption for class 4 residential property
 - Amends existing exemption for class 4 commercial property to 37.62%
- **Section 17 amends existing section 15-7-102 (Notice of classification and appraisal)**
 - Since there is only one tax rate and no phase-in, the language that excepted the department from mailing assessment notices for valuation changes that resulted from their application was removed.

- Valuation changes due solely to application of the exemption do not require assessment notification.
- **Section 18 amends existing section 15-7-111 (Periodic revaluation)**
 - Eliminates the phase-in of reappraisal values, new construction, remodeled, or reclassified property
- **Section 19 amends existing section 15-16-102 (Timing of tax payments)**
 - Eliminates the 20 day extension for Property Tax Assistance Program (PTAP) recipients to pay their property taxes
- **Section 20 amends existing section 47-1-111 (Indigence for purposes of obtaining court appointed counsel)**
 - Amendment is necessary because the bill also repeals section 15-30-171 (Elderly homeowner/renter credit [2EC])
 - Repeal of 2EC includes repeal of the formula used in 47-1-111 to determine indigence for purposes of assignment of legal counsel
 - Recodifies the formula that had existed in 15-30-171 into the text of 47-1-111
 - Does not result in a change in existing law
- **Section 21 amends existing section 53-4-1103 (Definitions for the Healthy Montana Kids Program)**
 - Amendment is necessary because the bill also repeals section 15-30-171 (Elderly homeowner/renter credit [2EC])
 - Repeal of 2EC includes repeal of the formula used in 53-4-1103 to determine income for purposes of the Healthy Montana Kids Program
 - Changes citation from 15-30-171 to 47-1-111
- **Section 22 amends existing section 53-6-1001 (Definitions for the prescription drug plus discount program)**
 - Necessary to reflect the repeal of 15-30-171
 - Repeal of 2EC includes repeal of the formula used in 53-6-1001 to determine gross household income for purposes of the prescription drug plus discount program
 - Changes citation from 15-30-171 to 47-1-111
 - Does not result in a change in existing law
- **Section 23 amends existing section 77-1-208 (Cabin site licenses and leases)**
 - Eliminates reference to the phase in of values in determining cabin site license and lease fees.
- **Section 24 repeals various laws no longer necessary under the provisions of this bill**
- **Section 25 provides codification instructions**
- **Section 26 establishes a voidness contingency**

- If funding is not made available during this session for the "prebate" program authorized in [New section 8], then that section is void
- **Section 27 makes the bill effective upon passage and approval**
- **Section 28 makes the bill retroactively applicable to tax years after December 31, 2008**